THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24011 OF 2006

DATED 18th NOVEMBER, 2006

BETWEEN

KAMR Trust rep.by its Managing Trustee Sri K.Madhava Rao

… Petitioner

and

The State of Andhra Pradesh, Revenue Department, Secretariat, Saifabad, Hyderabad, rep.by Principal Secretary and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24011 OF 2006

ORDER:

-

The petitioner is a registered trust allegedly owning the property bearing Municipal No.12-13-1210/5 admeasuring 886.50 square yards situated at Road No.10, Tarnaka, Secunderabad. The petitioner filed O.S.No.110 of 2006 on the file of the Court of the I Additional Chief Judge, City Civil Courts, Secunderabad against respondents 5 to 7 alleging that they demolished a part of the compound wall and made attempts to take possession by force. On pleadings, the trial Court ordered *ad interim injunction* in I.A.No.2289 of 2006 valid till 22.11.2006. The petitioner now alleges that at the behest of respondents 5 and 7, respondents 2 to 4 came to its premises after sunset on 14.11.2006 and highhandedly demolished the wall of the property without any notice to the petitioner. The official respondents informed the petitioner trust that the land belongs to Government and therefore, they are taking steps to prevent encroachment by private parties. Aggrieved by this, the petitioner filed the present writ petition seeking a writ of Mandamus declaring the alleged demolition of the petitioner's compound wall as illegal and arbitrary, and for a consequential direction to respondents to reconstruct the demolished compound wall duly paying compensation of Rs.2,00,000/- (Rupees two lakh only).

After hearing learned counsel for petitioner, this Court is of considered opinion that the writ petition is wholly misconceived. The petitioner already filed suit in August, 2006 and obtained *ad interim injunction* on 03.08.2006. The said order is valid upto 22.11.2006. If any of the defendants/respondents violate order of injunction, it is always open to petitioner to file appropriate application under Order XXXIX Rule 2A of Code of Civil Procedure, 1908 (for contempt). The writ petition, therefore, is not maintainable even if the allegation made against respondents 2 to 4 has any semblance of truth. When an order of injunction is violated or flouted by a person, who is not a party to the suit or to an application for *ad interim injunction*, the plaintiff or the person who obtained injunction can always seek remedy in the civil Court itself. A reference may be made to **Vidya Charan Shukla v Tamil Nadu Olympic Association**[1]. A Full Bench of Madras High Court considered the question whether a non-party or stranger to an injunction suit can be halled-up for contempt. Answering the query in

the affirmative, the Full Bench laid down as under.

> One important aspect of the case since there has been some arguments before us about it is, can it be said that for a breach of the injunction by a party or a stranger for aiding or abetting the breach alone, the Court's inherent power can be exercised and not in a case of a third party, who had the knowledge of the order, but decided to violate it, who may be guilty of obstructing the administration of justice still, will not be subject to any restitution order? This we feel needs no detailed discussion. No person can obstruct the path of justice. No one can escape by committing a gross and violent obstruction to the implementation of the order/direction of the Court. The only question relevant in such a situation will be, whether the right which such a person has pleaded has been acquired by the violation of the order or had existed in him independently unaffected by the injunction. There can be no other law than one stated above that no person should be allowed to reap the benefits of a wrong done by him and thus whether he is a guilty of civil contempt or criminal contempt, the wrong doer can always be subjected to the inherent jurisdiction of the Court, which is not different for the civil or criminal contempt. Whether it is a civil concept or a criminal contempt, it is a contempt of Court and the disobedience of the order in any case is an obstruction in the administration of justice. It has been urged however that any order of restitution or restoration of the status quo ante by the order of the Court should be as a consequence of the commission of the breach having been established. Reference has been made to certain procedure adopted by Courts in England that where judgments or orders of the Court are disobeyed, they are enforced by writ of sequestration or an order of committal. This however should not detain us beyond stating that even if it is assumed that the Court shall make an order of restitution or restoration of the status quo ante as a consequence of the finding of guilt of disobedience, if there can be such a power, there can always be ancillary to it the power to make an interim order to the said effect subject to the final determination of the case.

Therefore, it is always open to the petitioner to implead respondents 2 to 4 in the suit or file a contempt case against them for violating order of injunction provided the demolition of the compound wall while allegedly by the respondents 2 to 4 is in respect of the property, which is suit schedule in O.S.No.110 of 2006 on the file of the Court of the I Additional Chief Judge, City Civil Court, Secunderabad.

The writ petition is accordingly dismissed. No costs.

_____

(V.V.S.RAO,J)

18.11.2006.
pln

[1] AIR 1991 MADRAS 323